

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

TOBY J. MASSE,

Plaintiff,

V.

PAT GLEBE, *et al.*

## Defendants.

Case No. C08-5752 RBL/KLS

## ORDER TO SHOW CAUSE

This case has been referred to United States Magistrate Judge Karen L. Strombom pursuant to 28 U.S.C. § 636(b)(1) and Local MJR 3 and 4. This matter comes before the Court on the filing of Plaintiff Toby J. Masse's motion to proceed *in forma pauperis*. Dkt. # 1. Plaintiff is currently detained at the Washington State Penitentiary in Walla Walla, Washington. To file a complaint and initial legal proceedings, a plaintiff must file a filing fee of \$350.00 or file a proper application to proceed *in forma pauperis*.

A court may permit indigent litigants to proceed *in forma pauperis* upon completion of a proper affidavit of indigency. *See* 28 U.S.C. § 1915(a). However, a court has broad discretion in denying an application to proceed *in forma pauperis*. *Weller v. Dickson*, 314 F.2d 598 (9th Cir. 1963), *cert. denied*, 375 U.S. 845 (1963). Several district courts have ruled that denial of *in forma pauperis* status is not unreasonable when a prisoner is able to pay the initial expenses required to commence a lawsuit. *See* *Temple v. Ellerthorpe*, 586 F.Supp. 848 (D.R.I. 1984); *Braden v. Estelle*, 428 F.Supp. 595 (S.D.Tex.

1 1977); *U.S. ex rel. Irons v. Com. of Pa.*, 407 F.Supp. 746 (M.D.Pa. 1976); *Shimabuku v. Britton*, 357  
2 F.Supp. 825 (D.Kan. 1973), *aff'd*, 503 F.2d 38 (10th Cir. 1974); *Ward v. Werner*, 61 F.R.D. 639 (M.D.Pa.  
3 1974).

4 Pursuant to 28 U.S.C. § 1915(a)(2):

5 A prisoner seeking to bring a civil action or appeal a judgment in a civil action or  
6 proceeding without prepayment of fees or security therefor . . . shall submit a certified  
7 copy of the trust fund account statement (or institutional equivalent) for the prisoner for  
8 the 6-month period immediately preceding the filing of the complaint or notice of  
9 appeal, obtained from the appropriate official of each prison at which the prisoner is or  
10 was confined.

11 In addition, pursuant to 28 U.S.C. § 1915(b), a prisoner seeking to proceed *in forma pauperis* is  
12 required to submit a written acknowledgment and authorization form, authorizing the agency having  
13 custody over him to collect from his prison trust account an initial partial filing fee and subsequent  
14 monthly payments until the full filing fee is paid. Mr. Massee did not submit the acknowledgment and  
15 authorization form approved for use by this court.

16 By letter dated January 7, 2009, the Court Clerk advised Mr. Massee that he was required to pay  
17 the full filing fee of \$350.00 or that he must provide the Court with a completed *in forma pauperis*  
18 *application*, and that he should do so by February 6, 2009 or this action could be dismissed. Dkt. # 2.  
19 Mr. Massee has not paid the filing fee or submitted a completed application.

20 Accordingly, it is **ORDERED**:

21 (1) Plaintiff shall submit a completed *in forma pauperis* application, which shall include a  
22 copy of his prison trust account statement showing the balance and activity of his account  
23 for the six-month period immediately preceding the filing of his petition and a written  
acknowledgement and authorization form, to the Clerk **on or before April 17, 2009**.  
Alternatively, Plaintiff shall pay the full \$350.00 filing fee required to proceed with this  
action **on or before April 17, 2009**.

24 (2) **Failure to cure these deficiencies by the above date shall be deemed a failure to  
properly prosecute this matter and the Court will recommend dismissal of this  
matter.**

25 (3) The Clerk is directed to send a copy of this Order to Plaintiff.

26 DATED this 18th day of March, 2009.



27 Karen L. Strombom  
28 United States Magistrate Judge